

REMARKS

Reconsideration and allowance are respectfully requested. Claims 1, 8, and 13 have been amended. Claims 1-5, 7-10, 12-17, 19 and 20 are pending.

The rejection of claims 1-5, 7-10, 12-17, 19 and 20 under 35 U.S.C. 112, first paragraph and the objection under 35 U.S.C. 132(a) should be withdrawn since the language, "without biasing the spherical portion out of the recess" has been removed from claims 1, 8, and 13.

Claims 1, 2, 4, 8, 13, 14, 16, and 20 stand rejected under 35. U.S.C. 102(b) as being anticipated by Bohn. Claims 1, 8, and 13 have been amended to define the invention more clearly and thus, obviate the rejection. In particular, the independent claims as amended recite that the upstanding ribs extend from a bottom of the recess and within the recess. In addition the claims have been amended to recite that the spherical portion (claims 1 and 8) or portion (claim 13) directly contacts and deforms the ribs.

In Bohn, the ribs 32 and 34 are not within the recess formed by member 70, nor are the ribs 32 and 34 constructed and arranged to be directly contacted and deformed by portion 70 in Bohn. Therefore, the rejection should be withdrawn.

Claims 1, 2, 4, 7, 8, 12, 13-14, 16, 19 and 20 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Sangret in view of Pohl. This rejection is respectfully traversed.

The Examiner contends that it would have been obvious to modify Sangret by providing upstanding ribs extending from a bottom of a recess to define a deformable stop as taught by Pohl, "for the purpose of providing elastic deformation". The Examiner admits that, "Sangret clearly does not provide a **deformable** stop (emphasis added)." Applicant agrees. However, Sangret does not suggest that the stop (recess receiving ball bearing 32) should be deformable. The bearing 32, along with bearings 30, are provided to support the shaft 26 for rotation. The recess receiving the bearing does not control endplay of the shaft 26. In Sangret, axial adjustment is achieved by the adjustment screws 101 that engages the eccentric 50 which applies axial force to

the bearing 32 and thus to the shaft. There is no suggestion and no need to provide ribs in the recess of Sangret to control shaft endplay since the endplay is controlled by the adjustment screw 101. Therefore, the rejection is improper and should be withdrawn.

Furthermore, even if one of ordinary skill in the art were to modify Sangret by employing the teachings of Pohl, the modification would not result in the claimed invention. Pohl teaches an adjustment element 22 having integral springs 28. The shaft 14 fits into a recess 24 that is provided in the element 22. Applicant submits that one of ordinary skill in the art would not take just the spring 28 of the element 22 and put it into the recess receiving the ball bearing 32 of Sangret, as the Examiner contends. One of ordinary skill in the art would modify Sangret by using the entire adjusting element 22 of Pohl. The ball bearing 32 of Sangret would thus be received in recess 24 of the element 22. Such structure would not result in the claimed invention since, as claimed, the spherical portion must directly contact the ribs. In the modified Sangret structure, the ball bearing would contact the recess 24, not the spring 28. Therefore, the rejection is improper and should be withdrawn.

With regard to functional language, Applicant is not attempting to use functional language in lieu of structure, as in the case when means-plus-function is used in a claim. Applicant is merely employing functional language to further limit the recited structure. It is well established that there is nothing intrinsically wrong with the use of functional language in a claim. In re Ludtke, 169 U.S.P.Q. 563 (C.C.P.A. 1971); In re Swinehart, 169 U.S.P.Q. 226 (C.C.P.A. 1971).

The C.C.P.A. had addressed the issue of functional language limiting the claimed structure. In In re Venezia, 189 U.S.P.Q. 149, 151 (C.C.P.A. 1976), the Board sustained the rejection of claims under section 112, second paragraph, since the functional language in the claim was directed to assembly to take place in the future, and the claim recited no positive structural relationships.

Addressing the Section 112 rejection, the C.C.P.A. reversed, stating that the claimed invention included structural limitations on each part and those structural limitations were defined by how the parts are to be interconnected in the final assembly. The court also stated that terms "adapted to be affixed" or "when said housing is in its

repositioned location", for example, define present structures or attributes of the parts identified, which limits that structure. The court further stated that there is nothing wrong in defining structures of the components of the completed assembly in terms of the interrelationship of the components, or the attributes they must possess. Id. at 152.

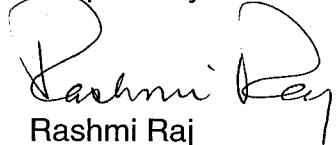
The C.A.F.C. in Pac-Tee Inc. v. Amerace Corn., 14 U.S.P.Q. 2d 1871 (Fed. Cir. 1990) affirmed the district court's finding of validity. The district court found, when considering the claims as wholes, that functional language such as "adapted to" and "thereby", for example, constitutes structural limitations, citing In re Venezia, and that functional language cannot be disregarded in such cases. Pac-Tee Inc. v. Amerace Corp. at 1876.

Accordingly, Applicant submits that the functional language defined in the independent claims further limits the specific structure recited and cannot be disregarded. There is no support for the Examiner to disregard any language in a claim.

Claims 3, 5, 9, 10, 15, and 17 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Bohn in view of Schonsteiner. These claims are dependent claims and are considered to be allowable over the prior art of record for the reasons advanced above with regard to claims 1, 8 and 13, and for the additional reason that the added subject matter thereof is not taught or suggested by the prior art of record.

All objections and rejections having been addressed, it is respectfully submitted that this application is in condition for allowance and a Notice to that effect is earnestly solicited.

Respectfully submitted,

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Rashmi Raj
Registration No. 50,500
Attorney for Applicant
Tel. No. (732) 321-3872

Customer No. 28524